

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 21

A ZONING ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA; REZONING 21.36 ACRES LOCATED AT 9201 AND 9301 CORKSCREW ROAD, FROM COMMERCIAL PLANNED DEVELOPMENT TO RESIDENTIAL PLANNED DEVELOPMENT FOR THE VOLUNTEERS OF AMERICA CONTINUING CARE/ASSISTED LIVING PROJECT, WITH A MAXIMUM 340 BEDS AND MAXIMUM BUILDING HEIGHT OF 45 FEET, AND INCLUDING CONDITIONS OF DEVELOPMENT; APPROVING CERTAIN DEVIATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Gulf Care, Inc. dba Gulf Coast Village, filed an application to rezone a 21.36 acre parcel from Commercial Planned Development to Residential Planned Development with deviations for an assisted living, independent living and continuing care facility with a maximum of 340 beds for the project known as Volunteers of America (The Colonnade of Estero CCRC); and

WHEREAS, the subject property is located at 9201 and 9301 Corkscrew Road, Estero (Strap numbers 34-46-25-E1-U1986.2380 and 34-46-25-E1-U2011.2380); and

WHEREAS, a public hearing was held on November 17, 2015 by the Village of Estero Planning and Zoning Board which gave full consideration to the evidence available and recommended approval with conditions of the request (The record consists of the November 10, 2015 staff report prepared by Community Development, the evidence presented at the hearing on file with the Village Clerk and the testimony of interested parties); and

WHEREAS, a public hearing was held on January 13, 2016 by the Village Council who gave consideration to the evidence available and continued the meeting until January 20, 2016.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

42 **Section 1. Request**

43
44 The Village Council of Estero hereby approves the applicant's request to rezone the
45 property from Commercial Planned Development to Residential Planned Development, to
46 allow a maximum of 340 beds of assisted living/independent living/continuing care with
47 buildings not to exceed 45' in height with the following conditions and deviations.

48
49 **Section 2. Conditions and Deviations**

50
51 1. Master Concept Plan/Development Parameters

52
53 The development of this project must be consistent with the one-page Master Concept
54 Plan entitled "ESTERO CONTINUING CARE RETIREMENT COMMUNITY" last
55 revised October 20, 2015, stamped received ~~OCTOBER 20,~~ December 18, 2015 except
56 as modified by the conditions below.

57
58 This development must comply with all of the requirements of the Land Development
59 Code ("LDC") at the time of local development order approval, except as may be
60 granted by deviations approved as part of this planned development.

61
62 This rezoning allows a maximum of 340 beds/units of assisted living/independent
63 living/continuing care (hereinafter referred to as assisted living) beds/units in any
64 combination or configuration so long as the density does not exceed 128 standard
65 dwelling units per LDC Sec. 34-1494 and LDC Sec. 34-1414(c) - as of the date of this
66 Zoning ~~Resolution~~ Ordinance approval. Commercial use is limited to 15,000 square
67 feet.

68
69 Resolution Z-05-038 Galleria at Corkscrew CPD is null and void as a result of this
70 zoning action, and is superseded by this Zoning ~~resolution~~ Ordinance.

71
72 Zoning Resolution Z-05-039 Design Parc CPD remains in full force and effect except
73 as amended herein. In the event of any inconsistency between this zoning ordinance
74 and zoning resolution Z-05-039 then the conditions and deviations approved in this
75 ordinance shall prevail.

76
77 2. Uses and Site Development Regulations

78 The following limits apply to the project and uses:

79
80 Schedule of Uses

81
82 Residential

83 Accessory Uses and Structures
 84 Accessory Commercial Support Uses, limited to a maximum of 2,500 square
 85 feet of floor area for each use. Must include a minimum of one of the following
 86 accessory commercial uses:
 87 Banks and Financial Institutions, Group I (including ATM)
 88 Barber or Beauty Shop
 89 Business Services, Group I – limited to catering for on-site events
 90 Convenience Store – (no self-service fuel pumps, not freestanding,
 91 located internal to site)
 92 Laundry or Dry Cleaning, Group I and II
 93 Restaurants, Group II and III
 94 Administrative Office
 95 Assisted Living Facility – See dwelling units below
 96 Clubs, private
 97 Community Garden per LDC Sec. 34-1716
 98 Continuing Care Facility – See dwelling units below
 99 Consumption on Premises, limited to project management, residents and guests
 100 of the residents within the restaurant (not open to the public). Consumption on
 101 premises for indoor use in the civic area (meeting rooms) for non-profit events
 102 will require a temporary permit. to indoors. Locations limited to restaurants,
 103 and to those areas shown as common areas and civic space on the approved
 104 master concept plan. Outdoor consumption on premises will require approval
 105 through an amendment to the RPD (public hearing required)
 106 Dwelling Units:
 107 Assisted Living Facility, Independent Living Facility, Continuing Care
 108 Facility, Maximum 340 beds. See Condition #1 above
 109 Essential Services
 110 Essential Services Facilities, Group I
 111 Excavation, Water Retention
 112 Fences, Walls
 113 Health Care Facilities, Group I, II, and III – accessory for on-site
 114 patient/resident care only.
 115 Home Occupation
 116 Independent Living Facility, See dwelling units above
 117 Medical Office – (15,000 square feet maximum per the Master Concept Plan)
 118 Model Units and Real Estate Sales (See Condition #4)
 119 Parking Lot, Accessory – includes covered parking per the Master Concept Plan
 120 Recreational Facilities, Private, On Site (accessory to assisted living only)
 121 Recreational Facilities, Indoor (accessory to assisted living only)
 122 Residential Accessory Uses and Structures
 123 Signs: Per Chapter 30 and Chapter 33 of the Land Development Code

Minimum Lot Areas and Dimensions including Amenities and Recreation

Assisted Living including Amenities and Recreation

Lot Size: 10,000 square feet

Lot Width: 100 feet

Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/5 feet (private)

Also see Deviations #2 and #6

Side 15 feet

Rear 20 feet

Water body 20 feet

All Accessory Uses: Per the LDC

Minimum Building Separation: 20 feet

Building Height: 45 feet/3 stories (whichever is less)

Maximum Lot Coverage: 45 percent

3. No Blasting

No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

4. Model Units/Real Estate Sales

A. Model units are limited to a maximum of 4.

B. Real estate sales are limited to recreational facilities/administrative offices and within model units.

C. Real estate sales will be limited to the sale of lots or units within the development only.

D. Hours of operation for model units and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m.

E. No dry models are permitted.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

163 6. Vehicular/Pedestrian Impacts

164 Approval of this rezoning request does not address mitigation of the project's vehicular
165 or pedestrian traffic impacts. Additional conditions consistent with the Land
166 Development Code may be required to obtain a local development order.

167
168 7. Plan Consistency/Concurrency

169 Approval of this rezoning does not guarantee local development order approval, or
170 issuance of a Concurrency Certificate. Future development order approvals must
171 satisfy the requirements of the Planning Communities Map and Acreage Allocation
172 Table, Map 16 and Table 1(b), be reviewed for, and found consistent with all other
173 Comprehensive Plan provisions.

174
175 8. Utilities

176 Water and sewer services are available to the site, and this development must connect
177 to those services as part of any local development order for the site for vertical
178 construction.

179
180 9. Lighting

181 Lighting of the subject property must be in compliance with the LDC Section 33-116
182 and Section 34-625 utilizing a maximum height of 20 feet for light structures except
183 that the maximum height of any light pole not within 50 feet of residentially zoned
184 property or use, or along pedestrian ways, is limited to 20-15 feet. All lighting must be
185 architecturally designed and complementary to the buildings where the lighting is
186 located. Light fixtures will be full cut-off to direct light away from adjacent properties.

187
188 10. Development Parameters

189 Development must include a unified "Old Florida" architectural theme for all buildings
190 including the office buildings on the eastern part of the property. The renderings must
191 be reviewed by the Estero Design Review Board who will make a recommendation to
192 the Village Council. The applicant will provide an architectural pattern book applicable
193 to the entire development (including uniform architectural patterns and renderings),
194 subject to approval of the Design Review Board at the time of the first development
195 order, consistent with the Old Florida architectural theme.

196
197 11. Signage

198 The development of the subject property must include a unified, common signage plan
199 and graphic theme throughout the project. The signage and graphic design theme must
200 be reviewed and approved by Village of Estero staff ~~or Design Review Board (for~~
201 monument signs), as applicable, prior to the issuance of a local the first development

order for the project. Any monument sign must be reviewed and approved by the Design Review Board prior to the issuance of the first development order.

12. Pedestrian-Friendly Design

The development must be designed with all of the following design elements:

- A. Traffic calming measures within internal roadways, which may include but not be limited to: speed bumps or tables, if approved by the Village and Fire District, raised pedestrian crossings, street trees and pedestrian-friendly landscaping; roundabouts, street furniture or the use of pavers and contrasting materials within the roadways.
- B. Sidewalks must be ~~provided~~ constructed at the time of the first development order on Corkscrew Road and Sandy Lane and at all entrance points and to provide connections to the existing sidewalk system on Corkscrew Road, and future sidewalk systems on Via Coconut/Sandy Lane.
- C. An internal sidewalk network connecting the uses within the development consistent with ~~on~~ the approved Master Concept Plan.
- D. Pedestrian crosswalk across Corkscrew Road as depicted on the Zoning in Progress Mixed Use Development Exhibit dated November 17, 2015 and attached hereto as Exhibit _____, must to be constructed at the time of the first development order. south across Corkscrew Road from western edge of property near Via Coconut/Sandy Lane.

13. Open Space

The overall project must provide a minimum of 8.5 acres of open space in substantial compliance with the approved Master Concept Plan.

14. Heritage Trees

Development order landscape plans must retain the two existing heritage oak trees located along Corkscrew Road to be preserved as part of a completed project.

15. Cross Access Easements

The cross access easements for the pedestrian interconnection with The Estates at Estero River must be recorded at the time of the first local development order for the project.

240 16. Landscape

- 241 a. The applicant will landscape the ditch edges within the drainage easement ~~dry~~
242 ~~detention area~~ along Corkscrew Road unless prohibited or restricted by the Lee
243 County Department of Transportation. The landscape plan is subject to approval
244 by Village staff and Design Review Board.
- 245
- 246 b. The applicant will plant trees to provide shade, along the sidewalks on Sandy Lane
247 and Corkscrew Road. Specifications will be subject to approval of Village staff
248 and Design Review Board.
- 249
- 250 c. The applicant will provide enhanced buffering on the north side of the northern
251 wall to include 20 foot tall canopy trees at the time of installation ~~at the~~ during the
252 time of the first phase of development order for the project, with shrubs planted at
253 installation, at 48 inches high, consistent with the conceptual drawing presented at
254 the Council meeting, attached hereto and labeled as Exhibit ____.
- 255
- 256 d. The area set aside for stand alone medical offices on the MCP will be graded, hydro
257 seeded and maintained to provide a finished appearance until these areas are
258 scheduled for construction activity through an approved permit. applicant will
259 landscape the area proposed for commercial uses in the interim period prior to
260 building the commercial phase. No clearing will be allowed.
- 261
- 262 e. All landscape plans for the entire project must be reviewed and approved by the
263 Design Review Board.
- 264

265 17. Pedestrian Crossing Interconnection

266 A pedestrian crossing interconnection will be provided in the northeast corner of the
267 site to the Estero River Estates at Estero River, and must be shown as depicted on the
268 site plan Mixed Use Development Exhibit dated November 17, 2015 and attached
269 hereto as Exhibit ____ and must be depicted on the plans for the first development order.
270 ~~and must be shown on the site plan a recorded plat.~~ This interconnection will have a
271 secure gate accessible only by the Estates at Estero River residents and the management
272 and designees of the Colonnade of Estero CCRC project.

273

274 18. Wall

275 The existing wall along the north property line must be rebuilt, replaced and/or repaired
276 verified for structural integrity and height, and to bring the wall into good order and
277 repair and in compliance with current codes. The wall must be maintained in
278 acceptable code compliant condition in perpetuity.

279 19. Driveways

280 The ~~internal~~ project sidewalks, accesses, and driveways will be open to the public and
281 will not be gated, except for the pedestrian gate to the adjacent community.
282

283 20. Seventy five hundred (7,500) square feet of the commercial phase (medical office
284 buildings) must be constructed during the first phase of development of the project.
285 The remaining 7,500 square feet must be constructed as part of the second phase of the
286 project. ~~no later than when 50% of the units have been approved, or when the second~~
287 ~~phase of the continuing care facility receives its first development order, whichever~~
288 ~~comes first.~~
289

290 21. The project's civic spaces will be available to local non-profit groups to use ~~on a~~
291 ~~reasonable basis~~ for a reasonable fee in connection with appropriate events to be
292 determined in the reasonable discretion of the developer.
293

294 22. The applicant will provide shuttle bus or van service to the residents, as Lee Tran bus
295 service is not available.
296

297 **Deviation Requests**
298

299 Deviation #1 is approved with the condition below, granting relief from LDC 10-416(d)(6)
300 which requires if roads, drives or parking areas are located less than 125 feet from a residential
301 single-family subdivision, a solid wall or wall/berm combination must be provided not less
302 than 8 in height to be constructed not less than 25 feet from the abutting property line and
303 landscaped (between the wall and the abutting property) with a minimum of five trees, and 18
304 shrubs per 100 linear feet, to allow instead a solid wall or combination berm and solid wall not
305 less than eight feet in height to be constructed not less than 15 feet from the abutting property
306 line to the north and landscaped (between the wall and abutting property) with a double
307 staggered row hedge maintained at 60 inches and 10 trees per 100 linear feet.
308

309 Condition: ~~The dumpster must be relocated further south to the service area, and The~~
310 ~~parking on the north side of the buildings must be covered to minimize noise to the~~
311 ~~adjacent property.~~
312

313 Deviation #2 is approved, granting relief from LDC Section 33-406 requiring a maximum 25-
314 foot street setback in the Corkscrew Main Overlay district, to allow a setback of 110 feet along
315 Corkscrew Road for the buildings as shown on the Master Concept Plan.
316

317 Deviation #5 is approved, with the following condition, granting relief from LDC Section 34-
318 2015(2)d. which requires exiting vehicles to leave a parking lot in a forward motion, to allow
319 for parking as depicted on the master concept plan.

Condition: If vehicles back directly onto an internal access way, the posted speed limit of the access way must be 25 miles per hour or less, and the access way must be designed so that traffic calming devices are provided per Lee County Administrative Code AC-11-14. The design and location of traffic calming devices will be to the satisfaction of the Village of Estero staff.

Deviation #6 is approved, granting relief from LDC Section 33-403 which requires that buildings on corner lots be designed with a maximum setback of 25 feet from each adjacent right of way, to allow a setback of 185 feet from Sandy Lane and 110 feet from Corkscrew Road.

Deviation #7 is approved, granting relief from LDC Section 34-2192(b)(5) which requires all parking lots, access streets, and drives to be a minimum of 75 feet from the right of way, to instead allow parking lots, access streets, and drives to be set back to a minimum of 50 feet from the right of way as shown on the master concept plan.

Deviations 3, 4, and 8 were withdrawn by the Applicant.

Section 3. Findings and Conclusions

Based upon an analysis of the application and the standards for approval of planned development rezonings, the Village Council makes the following findings and conclusions:

1. The applicant has justification for the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes and regulations, as conditioned.
2. The requested zoning to Residential Planned Development (RPD), as conditioned:
 - a. Meets all performance and locational standards set forth for the potential uses allowed by the request; and
 - b. Is consistent with the densities, intensities and general uses set forth in the Comprehensive Plan; and
 - c. Is compatible with existing or planned uses in the surrounding area, as conditioned; and
 - d. The request will not adversely affect environmentally critical areas or natural resources.
3. Although there will be additional trips generated by the development, approval of the request will not place an undue burden upon existing transportation or planned

infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.

4. Urban services, as defined in the Comprehensive Plan will be available and adequate to serve the proposed land use.
5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.
6. The recommended conditions to the master concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations as conditioned, will preserve and promote the general intent of the LDC to protect the public health, safety and welfare.
9. The project sufficiently complies with Village of Estero Resolution No. 2015-22, in that the project demonstrates principles of compact, walkable, transit supportive, mixed use development, with an emphasis on employment, housing and recreation uses.

Section 4. Exhibits

The following Exhibits are attached to this ordinance and incorporated by reference:

EXHIBIT A Legal Description

EXHIBIT B Master Concept Plan stamped received ~~October 20, 2015~~ December 18, 2015.

Section 5. Effective Date

This ordinance shall take effect immediately upon adoption.

PASSED on first reading this 16th day of December, 2015.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this ____ day of ____, 2016.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____

By: _____

Kathy Hall, MMC
Village Clerk

Nicholas Batos
Mayor

401 Reviewed for legal sufficiency:
 402
 403
 404 By: _____
 405 Nancy Stroud, Esq.
 406 Land Use Attorney
 407
 408 Vote: AYE NAY
 409 Mayor Batos _____ _____
 410 Vice Mayor Levitan _____ _____
 411 Councilmember Boesch _____ _____
 412 Councilmember Brown _____ _____
 413 Councilmember Errington _____ _____
 414 Councilmember Ribble _____ _____
 415 Councilmember Wilson _____ _____